

## REMARKS

Applicant would like to express his appreciation for the courtesy extended to applicant's counsel during the telephone interviews of July 7, 8 and 15, 2003.

It is believed that the amendments submitted herewith do not introduce new matter and meet the formal requirements of 35 USC 112, in particular paragraphs 1, 2 and 6 thereof. The specification has been amended at pages 2 and 4 to correct minor typographical errors. Figure 3 of the drawings has been amended to show a plumb bob stored in the tool. Figure 5 of the drawings has been amended to show the reference numeral 44. The amendment to page 3, line 25 of the specification inserts the language of original claim 13.

With regard to the objections to the specification, and the rejections of claims 1, 6 and 15 as being unsupported, the specification, for example, original claim 13 and Figure 5, detail the structure and function of the invention. See also page 3, at line 29, through page 4, line 14. Amended claim 1, submitted herewith, clarifies the means term as used in claim 1, as permitted by 35 USC 112, paragraph 6. Applicant firmly believes, and so asserts, that claims 1, 6 and 15 have abundant support in the specification, and the specification and claims meet the requirements of 35 USC 112, paragraphs 1, 2 and 6.

Claims 6 and 15 are structural claims which do not contain any means terms. For example, claim 6 includes the following structural terms:

1. Tool

2. Base
3. Magnetic attachment
4. First reference plane
5. First flange
6. Second reference plane
7. Second flange
8. Spaced flanges
9. Aperture.

Claims 7-16 include similar structural terms.

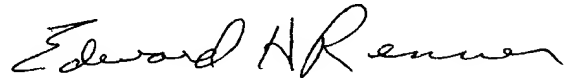
Applicant further responds to the new arguments and new grounds of objection and rejection of paragraph 3 of the Official Action of July 22, 2003. These new grounds are addressed to substantive matters. These new grounds have been introduced at a very late time in the prosecution and are not properly the subject matter for an action under the practice of *Ex parte Quayle*. Applicant respectfully requests that these new grounds be withdrawn or a new non-final action be issued.

Applicant respectfully traverses the Examiner's comments with regard to allowable subject matter in claims 6 through 16. The plumb bob and string are not positive elements of independent claims 6 and 15 (or dependent claims 7 through 14 and 16). Claims 6 and 15 recite the function that the tool structure can perform in cooperation with a plumb bob and string. A plumb bob and string thus provide environment for the claimed invention. Similarly, claims 6 and 15 set out the cooperation the structure can perform with a steel door. A steel door thus

provides environment for the invention even though a steel door is not a positive element of claims 6 and 15.

In summary, it is respectfully submitted that the claims are patentable over the references of record. It is also respectfully submitted that the specification, drawings and claims are in proper form and meet the requirements of 35 USC, including Section 112, *inter alia*. A speedy approval and issuance is respectfully requested.

Respectfully submitted,




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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 22, 2003.

  
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